



# Journal of the House

State of Indiana

114th General Assembly

First Regular Session

Thirty-three Meeting Day

Tuesday Afternoon

March 22, 2005

The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Pastor Overmeyer, Family Bible Church, Portage, the guest of Representative Duane Cheney.

The Pledge of Allegiance to the Flag was led by Representative Cheney.

The Speaker ordered the roll of the House to be called:

T. Adams	Klinker
Aguilera	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer ☐	J. Lutz
Becker	Mahern
Behning	Mays
Bischoff	McClain
Borders	Messer
Borror	Micon
Bottorff	Moses
Bright	Murphy
C. Brown	Neese
T. Brown	Noe
Buck	Orentlicher
Budak	Oxley
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas ☐
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Ulmer
Gutwein	VanHaaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 265: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, March 24, 2005 at 1:30 p.m.

ULMER

Motion prevailed.

## RESOLUTIONS ON FIRST READING

### House Concurrent Resolution 27

Representative Torr introduced House Concurrent Resolution 27:

A CONCURRENT RESOLUTION honoring Mark Weaver for his many years of dedication to the profession of teaching Indiana's youth and for being named Indiana's Teacher of the Year for 2004.

*Whereas, Mr. Weaver is a Grade 7 and 8 science teacher of 21 years at Clay Junior High School in Carmel, Indiana;*

*Whereas, Mr. Weaver earned his Bachelor of Science Degree in Botany with an Education Certification from Butler University in 1981 and his Master of Science Degree in Biology Education from Butler University in 1983;*

*Whereas, Mr. Weaver believes that students must be engaged in science in order to learn and love it;*

*Whereas, Mr. Weaver's dedication to teaching has earned him the respect of his colleagues, students, and the parents of students at Clay Junior High School;*

*Whereas, In addition to his responsibilities at the Clay Junior High School, he is the chief timer, scorer, and announcer for Clay Junior High football and basketball games;*

*Whereas, Mr. Weaver is a member of a steering committee for the Carmel Parks Department and has assisted the Indiana Department of Natural Resources in conducting evaluations of programs and materials;*

*Whereas, Mr. Weaver also helps sponsor various church activities and is involved with helping the Salvation Army;*

*Whereas, Mr. Weaver has received many honors and recognitions, including Who's Who on the Web, the City of Carmel's "Teacher of the Day-Mark Weaver Day", and an honoree and finalist for Disney's American Teacher award;*

*Whereas, Mr. Weaver was named a Milken Family Foundation National Educator in 1997 and was named Carmel Clay Schools Teacher of the Year in 2003; and*

*Whereas, Mr. Weaver was recently named Indiana's Teacher of the Year for 2004 and will represent Indiana this spring in Washington, D.C. at the national competition sponsored by the Council of Chief of State School Officers: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana House of Representatives, the Senate concurring, does honor and congratulate Mark Weaver for his dedication to the youth of Indiana, upon being named as Indiana's Teacher of the Year for 2004, and for representing Indiana in the national competition held in Washington D.C.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Mark Weaver.

The resolution was read a first time and adopted by voice vote. The

Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Kenley.

### House Concurrent Resolution 28

Representatives Micon and Klinker introduced House Concurrent Resolution 28:

A CONCURRENT RESOLUTION recognizing the Center for Education and Research Information Assurance and Security (CERIAS).

*Whereas, The Center for Education and Research Information Assurance and Security (CERIAS) at Purdue University was founded in 1998 and is widely recognized as the world's foremost academic center of excellence in issues of information security and privacy;*

*Whereas, CERIAS has been organized as a multidisciplinary center at Purdue with over 100 affiliated faculty, staff, and graduate students on the Purdue campus interacting with business and industry to conduct research into privacy, computer and network protection, e-commerce safety, cybercrime prevention and investigation, computer-based terrorism, and national defense;*

*Whereas, The week of March 21-27 has been proclaimed Indiana Information Security Week in order to bring attention to the challenges posed by information security threats;*

*Whereas, This public awareness initiative will include events and activities designed to enhance the security literacy and skills of Indiana businesses, organizations, and citizens, and will kick off with an Information Security Symposium presented by CERIAS during the week of March 21 that will focus on issues of privacy, protection of intellectual and proprietary property, security education, and intrusion detection;*

*Whereas, Throughout the month of April, the Indiana Information Security Awareness Initiative will take a multilayered and multipronged approach to increasing security literacy and skills in order to position Indiana at the forefront of study and information regarding information assurance and security; and*

*Whereas, Indiana Information Security Week's efforts to raise awareness will include the development of media guides and information campaigns, the provision of information and resources to agencies, business leaders, and organizations to increase the security skills of businesses engaged in a variety of e-commerce activities, and the provision of information and assistance to public decision makers for use in developing appropriate security policies and legislation: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the members of the Indiana General Assembly wish to recognize the efforts of the Center for Education and Research Information Assurance and Security (CERIAS) in bringing attention to the challenges posed by information security threats.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the members of the Center for Education and Research Information Assurance and Security (CERIAS).

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Altling, Rogers, and Bowser.

### House Resolution 27

Representative Behning introduced House Resolution 27:

A HOUSE RESOLUTION to congratulate and honor Donald H. Stinson as recipient of the Indiana Association of Public School Superintendents 2005 Superintendent of the Year award.

*Whereas, Donald H. Stinson, an esteemed resident of Clayton, Indiana has achieved national recognition for exemplary service by receiving the Indiana Association of Public School Superintendents 2005 Superintendent of the Year award.*

*Whereas, Donald H. Stinson, a 1968 graduate of Decatur Central High School, became Superintendent of the Metropolitan School District of Decatur Township in 2000;*

*Whereas, In four years, Superintendent Donald H. Stinson has led the school district through a strategic leadership and facilities planning process;*

*Whereas, During the past four years Decatur Central High school has raised its graduation rate from 79 percent to 94 percent;*

*Whereas, Decatur Central has also experienced a 43 point increase in its Scholastic Aptitude Test scores gaining the attention of Indianapolis mayor, Bart Peterson;*

*Whereas, Superintendent Donald H. Stinson is the only Superintendent who is responsible for instituting a charter school;*

*Whereas, Superintendent Donald H. Stinson led other innovations including the Decatur Discovery Academy, local business partnerships, and a community center;*

*Whereas, Superintendent Donald H. Stinson also partnered with commercial developers, Holladay Properties (to house the new Decatur Enrichment Center), the Challenger Learning Center of Decatur Township and the Decatur-AmeriPlex IVY-Tech State College campus;*

*Whereas, Superintendent Donald H. Stinson is a true leader who believes in empowering his fellow teachers and building consensus to achieve success; and*

*Whereas, Superintendent Donald H. Stinson earned this award for his creativity by successfully meeting the needs of students in the school system, for his strength in both personal and organizational communication, and for his professionalism by the constant improvement of administrative knowledge and skills, while providing professional development opportunities and motivation to others on the education team: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives does congratulate and honor Donald H. Stinson as recipient of the Indiana Association of Public School Superintendents 2005 Superintendent of the Year award.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Donald H. Stinson. The resolution was read a first time and adopted by voice vote.

### House Resolution 28

Representative Klinker introduced House Resolution 28:

A HOUSE RESOLUTION honoring Nick Novak.

*Whereas, Nick Novak, the 2001-2004 starting place kicker for the University of Maryland, is a football player who stands out among all others;*

*Whereas, Nick Novak was the only Indiana place kicker invited to attend the 2005 NFL combine;*

*Whereas, Nick Novak currently holds the Atlantic Coast Conference all-time career scoring record with 393 career points, exceeding the old record held by Scott Bentley of Florida State University by 67 points;*

*Whereas, While at the University of Maryland, Nick broke the single season scoring record with 125 points scored during the 2002 season and tied the field goal distance record with a 54-yard field goal;*

*Whereas, Nick's 393 total career points establishes him as one of the top five all-time career scorers in NCAA football history;*

*Whereas, In addition to his prowess on the football field, Nick was an outstanding student, receiving the 2004 James E. Tatum Award for the top senior student athlete among all ACC players and the 2002 and 2003 George Boutsellis Memorial Award given to the letterman with the highest academic average; and*

*Whereas, Academic and athletic accomplishments and dedication to goals such as those displayed by Nick Novak merit special recognition: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana:*

SECTION 1. That the members of the Indiana House of Representatives acknowledge the accomplishments of Nick Novak during his career at the University of Maryland and his invitation to the 2005 NFL combine, and wish him well in his future endeavors, both on and off the football field.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Nick Novak and his family.

The resolution was read a first time and adopted by voice vote.

## OTHER BUSINESS ON THE SPEAKER'S TABLE

### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 44 and 45 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 51 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## RESOLUTIONS ON FIRST READING

### Senate Concurrent Resolution 44

The Speaker handed down Senate Concurrent Resolution 44, sponsored by Representatives Mays and Orentlicher:

A CONCURRENT RESOLUTION honoring Mrs. Mariama Shaheed-Carson of Indianapolis, Indiana, a six year elementary teacher at Eagle Creek Elementary School, Metropolitan School District of Pike Township in Indianapolis as a 2004-2005 Milken Foundation National Educator.

*Whereas, The Milken Foundation National Educator Award is given to recognize education professionals' crucial contributions to our national well being;*

*Whereas, Mrs. Shaheed-Carson creates developmentally-focused lessons that incorporate local, state and national standards, and she uses integrated thematic instruction, spiral learning, activities that enhance higher order thinking skills, and cooperative learning. She is a member of the C.L.A.S.S. Support Team, who are a group of teachers who help with thematic integration and community building in the classroom;*

*Whereas, Mrs. Shaheed-Carson is a certified bilingual teacher and visited Cuernavaca, Mexico last year in order to more effectively address the educational and cultural needs of her diverse student population and she created a Cinco de Mayo celebration at Eagle Creek;*

*Whereas, Mrs. Shaheed-Carson provides an engaging learning environment resulting in her fifth graders making significant achievement gains on the Northwest Evaluation Association assessment, often with some of the highest scores in the district and she created Carson's Book Club for students;*

*Whereas, Mrs. Shaheed-Carson graduated cum laude from Butler University earning a B.S. degree in Elementary Education and a Masters in Business Management from Indiana Wesleyan University;*

*Whereas, Mrs. Shaheed-Carson has received several other awards; IU Interdisciplinary Collaborative Program recipient, IPL Golden Apple Nominee, Pike Township Teacher of the Year nominee, and the Butler University Outstanding Student Teacher; and*

*Whereas, Mrs. Shaheed-Carson has been active in her community as the YMCA Before and After School Program Director, as a Project Upward Bound Tutor/Counselor, as a Hispanic Education Center volunteer, and as a Martin Luther King Multi-Service Center volunteer; Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the General Assembly congratulates and honors Mrs. Mariama Shaheed-Carson for her distinguished service to Eagle Creek Elementary School, her students in Indianapolis and her contribution to education in the State of Indiana.

SECTION 2. That the Secretary of the Senate shall transmit a copy of the resolution to Mrs. Mariama Shaheed-Carson.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

The House recessed for the remarks of United States Congresswoman Julia Carson, the grandmother-in-law, of Mrs. Shaheed-Carson.

The House reconvened with the Speaker in the Chair.

### Senate Concurrent Resolution 45

The Speaker handed down Senate Concurrent Resolution 45, sponsored by Representative Klinker:

A CONCURRENT RESOLUTION commemorating the 100th Anniversary of The Lafayette Life Insurance Company.

*Whereas, The Lafayette Life Insurance Company was founded in 1905, in Lafayette, Indiana;*

*Whereas, The mission of The Lafayette Life Insurance Company is to maintain Lafayette Life as a financially sound, quality driven, growth oriented company, dedicated to exceeding its customers' requirements for life insurance and related financial services and to distribute its products to well-defined U.S. market segments;*

*Whereas, The Lafayette Life Insurance Company ranks among the top 200 life insurance companies in the United States, with over \$20 billion of insurance in force;*

*Whereas, During the past century, The Lafayette Life Insurance Company has never failed to pay policyowners an annual dividend;*

*Whereas, The Lafayette Life Insurance Company has a proud history of strong financials and excellent customer service; and*

*Whereas, The Lafayette Life Insurance Company is committed to maintaining its tradition of excellence in the future: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly recognizes the excellent products and customer service that The Lafayette Life Insurance Company provides and celebrates the 100th Anniversary of this outstanding company.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to the Board of Directors of The Lafayette Life Insurance Company.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

### Senate Concurrent Resolution 51

The Speaker handed down Senate Concurrent Resolution 51, sponsored by Representative Saunders:

A CONCURRENT RESOLUTION honoring the Shenandoah High School girls' basketball team for winning the 2005 Class 2A Championship.

*Whereas, The Shenandoah High School girls' basketball team enjoyed a 22-5 season record;*

*Whereas, On March 5, 2005, Shenandoah High School triumphed over North Judson-San Pierre by a score of 54-49 in the championship game at Conseco Fieldhouse in Indianapolis;*

*Whereas, Senior Guard Kara Keesling is the 2004-05 recipient of the Patricia L. Roy Mental Attitude Award for Class 2A. Kara*

*finished the game with 13 points and sealed the team's victory by sinking two key free throws with 18.7 seconds remaining; and*

*Whereas, With this year's victory, Shenandoah earned its second state championship in three years: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly congratulates the Shenandoah High School girls' basketball team for their outstanding season culminating with the IHSAA Class 2A State Championship.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Principal Charles Willis, Athletic Director Rick Penn, Head Coach Todd Salkoski, and each member of the championship team.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Engrossed Senate Bill 30, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-9-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) An authority is under the control of a board (referred to as "the board" in this chapter) that, except as provided in subsections (b) and (c), consists of:

- (1) two (2) members appointed by the executive of each county in the authority;
- (2) one (1) member appointed by the executive of the largest municipality in each county in the authority;
- (3) one (1) member appointed by the executive of each second class city in a county in the authority; and
- (4) one (1) member from any other political subdivision that has public transportation responsibilities in a county in the authority.

(b) An authority that includes a consolidated city is under the control of a board consisting of the following:

- (1) Two (2) members appointed by the executive of the county having the consolidated city.
- (2) One (1) member appointed by the board of commissioners of the county having the consolidated city.
- (3) One (1) member appointed by the executive of each other county in the authority.
- (4) Two (2) members appointed by the governor from a list of at least five (5) names provided by the Indianapolis regional transportation council.
- (5) One (1) member representing the four (4) largest municipalities in the authority located in a county other than a county containing a consolidated city. The member shall be appointed by the executives of the municipalities acting jointly.
- (6) One (1) member representing the excluded cities located in a county containing a consolidated city that are members of the authority. The member shall be appointed by the executives of the excluded cities acting jointly.
- (7) One (1) member of a labor organization representing employees of the authority who provide public transportation services within the geographic jurisdiction of the authority. The labor organization shall appoint the member.

(c) An authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is under the control of a board consisting of the following sixteen (16) members:

(1) Three (3) members appointed by the executive of a city with a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Two (2) members appointed by the executive of a city with a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) One (1) member jointly appointed by the executives of the following municipalities located within a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A city with a population of more than five thousand one hundred thirty-five (5,135) but less than five thousand two hundred (5,200).

(B) A city with a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

(4) One (1) member who is jointly appointed by the fiscal body of the following municipalities located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A town with a population of more than fifteen thousand (15,000) but less than twenty thousand (20,000).

(B) A town with a population of more than twenty-three thousand (23,000) but less than twenty-four thousand (24,000).

(C) A town with a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(5) One (1) member who is jointly appointed by the fiscal body of the following municipalities located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A town with a population of more than eight thousand (8,000) but less than nine thousand (9,000).

(B) A town with a population of more than twenty-four thousand (24,000) but less than thirty thousand (30,000).

(C) A town with a population of more than twelve thousand five hundred (12,500) but less than fifteen thousand (15,000).

(6) One (1) member who is jointly appointed by the following authorities of municipalities located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) The executive of a city with a population of more than nineteen thousand eight hundred (19,800) but less than twenty-one thousand (21,000).

(B) The fiscal body of a town with a population of more than nine thousand (9,000) but less than twelve thousand five hundred (12,500).

(C) The fiscal body of a town with a population of more than five thousand (5,000) but less than eight thousand (8,000).

(D) The fiscal body of a town with a population of less than one thousand five hundred (1,500).

(E) The fiscal body of a town with a population of more than two thousand two hundred (2,200) but less than five thousand (5,000).

(7) One (1) member appointed by the fiscal body of a town with a population of more than thirty thousand (30,000) located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(8) One (1) member who is jointly appointed by the following authorities of municipalities that are located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) The executive of a city having a population of more than twenty-five thousand (25,000) but less than twenty-seven thousand (27,000).

(B) The executive of a city having a population of more than thirteen thousand nine hundred (13,900) but less than fourteen thousand two hundred (14,200).

(C) The fiscal body of a town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200).

(9) Three (3) members appointed by the fiscal body of a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(10) One (1) member appointed by the county executive of a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(11) One (1) member of a labor organization representing employees of the authority who provide public transportation services within the geographic jurisdiction of the authority. The labor organization shall appoint the member. If more than one (1) labor organization represents the employees of the authority, each organization shall submit one (1) name to the governor, and the governor shall appoint the member from the list of names submitted by the organizations.

(12) The executive of a city with a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-eight thousand (28,000), located within a county with a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), or the executive's designee.

(13) The executive of a city with a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000), located within a county with a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), or the executive's designee.

(14) One (1) member of the board of commissioners of a county with a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), appointed by the board of commissioners, or the member's designee.

SECTION 2. IC 36-9-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) A majority of the members appointed to the board constitutes a quorum for a meeting.

(b) Except as provided in ~~subsection~~ subsections (c) and (d), the board may act officially by an affirmative vote of a majority of those present at the meeting at which the action is taken.

(c) If the authority includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), then:

(1) an affirmative vote of a majority of the board is necessary for an action to be taken; and

(2) a vacancy in membership does not impair the right of a quorum to exercise all rights and perform all duties of the board.

(d) This section applies to an authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A member described in section 5(c)(12), 5(c)(13), or 5(c)(14) of this chapter may not vote on the distribution or payment of money by the authority unless a county with a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) pays to the authority the county's share of the authority's budget under this chapter and as agreed by the counties participating in the authority."

Page 2, after line 21, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the northwest Indiana transportation, infrastructure, and economic development coordination interim study commission established by this SECTION.

(b) The general assembly finds that:

(1) the proximity of Lake County to the third largest population center in the United States; and

(2) Lake County's location as the gateway between a highly populated northern corridor of Indiana counties and Illinois;

present unique transportation, economic development, and infrastructure challenges that require the establishment of the commission.

(c) There is established the northwest Indiana transportation, infrastructure, and economic development coordination interim

study commission. The commission shall do the following:

(1) Review the planning, oversight, financing, and development of transportation services in northwest Indiana and recommend changes directed at:

(A) improving the service delivery for all citizens of the region;

(B) lowering long term costs; and

(C) consolidating organizational structures whenever possible.

(2) Review planned expansion of transportation infrastructure developments as to cost, scheduling, oversight, and authorities involved and recommend changes consistent with improving service delivery and economic development potential.

(3) Consider possible changes to economic development organizational structures and their financing across the region to facilitate economic growth and employment growth throughout northwest Indiana.

(4) Review other infrastructure development projects vital to northwest Indiana and consider how those projects may be facilitated.

(5) Research and report any potential sources for funding of a regional transportation authority.

(6) Study any other topic assigned by the legislative council.

(d) The commission consists of the following members:

(1) One (1) member appointed by the shoreline development commission established by IC 36-7-13.5-2.

(2) One (1) member appointed by an airport development authority established by an eligible entity described in IC 8-22-3.7-4.5(1).

(3) One (1) member appointed by a regional transportation authority that was established under IC 36-9-3-2 that serves Lake County.

(4) One (1) member appointed by the northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(5) One (1) member appointed by the county executive of Lake County.

(6) One (1) member appointed by the county executive of Porter County.

(7) One (1) member appointed by the county executive of LaPorte County.

(8) Four (4) senators appointed by the president pro tempore of the senate in consultation with the minority leader of the senate, not more than two (2) of whom may be members of the same political party.

(9) Four (4) representatives appointed by the speaker of the house of representatives in consultation with the minority leader of the house of representatives, not more than two (2) of whom may be members of the same political party.

(e) Except as otherwise provided in this SECTION, the commission shall operate under the policies governing study committees adopted by the legislative council.

(f) The affirmative votes of a majority of the members appointed to the commission are required for the commission to take action on any measure, including final reports.

(g) This SECTION expires January 1, 2006.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board or commission" includes any:

(1) board;

(2) commission;

(3) committee;

(4) council;

(5) panel;

(6) task force;

(7) authority;

(8) foundation; or

(9) bureau;

that was created by an executive order or by statute and that is in existence on July 1, 2005.

(b) The government efficiency commission is established.

(c) The government efficiency commission consists of the following members:

(1) One (1) cochairperson appointed not later than fifteen

(15) days after the effective date of this SECTION by the

president pro tempore of the senate.

(2) One (1) cochairperson appointed not later than fifteen (15) days after the effective date of this SECTION by the speaker of the house of representatives.

(3) Ten (10) members appointed by the president pro tempore of the senate not later than thirty (30) days after the appointment is made under subdivision (1), five (5) of whom must be appointed with the advice and consent of the minority leader of the senate.

(4) Ten (10) members appointed by the speaker of the house of representatives not later than thirty (30) days after the appointment is made under subdivision (2), five (5) of whom must be appointed with the advice and consent of the minority leader of the house of representatives.

(d) The following may not be members of the government efficiency commission:

(1) An elected or appointed state or local official.

(2) A person who on the effective date of this SECTION was appointed to or was otherwise serving on the board or as a member of a board or commission.

(3) A lobbyist (as defined by IC 2-7-1-10).

(e) The cochairpersons may appoint nonvoting advisory members to serve on the government efficiency commission.

(f) A member of the government efficiency commission is not entitled to a salary per diem.

(g) A member of the government efficiency commission is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in state travel rules or the state budget act.

(h) The government efficiency commission shall meet upon the call of the cochairpersons.

(i) The cochairpersons may advise the president pro tempore of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives concerning the appointment of other members of the government efficiency commission.

(j) A quorum of the government efficiency commission must be present to conduct business. A quorum consists of a majority of the voting members appointed to the government efficiency commission.

(k) The government efficiency commission may not take an official action unless the official action has been approved by at least a majority of the voting members appointed to serve on the government efficiency commission.

(l) The cochairpersons may establish and appoint government efficiency commission members to subcommittees as the cochairpersons consider appropriate to carry out the government efficiency commission's duties under subsection (m). The cochairpersons shall name the chairperson of each subcommittee.

(m) The government efficiency commission shall do the following:

(1) Make recommendations to improve efficiency and reduce unnecessary costs associated with any board or commission or state funded agency, department, or program.

(2) Review and make recommendations to the governor concerning each board or commission about the following:

(A) Whether the board or commission should be continued, reorganized, or combined with another board, commission, or state agency.

(B) Whether the board or commission should be terminated or allowed to expire.

(n) The government efficiency commission may accept donations to carry out the purposes of this SECTION.

(o) The office of the governor shall provide staff support to the government efficiency commission.

(p) The government efficiency commission shall provide its final recommendations before October 1, 2005, to the governor.

(q) The governor shall:

(1) review the recommendations made by the government efficiency commission under this SECTION; and

(2) before November 1, 2005, submit a report to the legislative council recommending legislation necessary to carry out those recommendations that the governor

determines will improve the efficiency and operations of state government.

(r) The legislative council shall:

(1) review; and

(2) determine what legislation should be prepared for introduction in the 2006 regular session of the general assembly with respect to;

the recommendations made under this SECTION.

(s) Nothing in this SECTION may be construed to authorize the termination or reorganization of a board or commission except as otherwise provided by law.

(t) This SECTION expires January 1, 2006.

SECTION 6. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to SB 30 as printed January 28, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

DUNCAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred Engrossed Senate Bill 32, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-47-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. "Proper person" means a person who: ~~does not~~:

(1) ~~does not~~ have a conviction for resisting law enforcement under IC 35-44-3-3 within five (5) years before the person applies for a license or permit under this chapter;

(2) ~~does not~~ have a conviction for a crime for which ~~he~~ the person could have been sentenced for more than one (1) year;

(3) ~~does not~~ have a conviction for a crime of domestic violence (as defined in IC 35-41-1-6.3), unless a court has restored the person's right to possess a firearm under IC 3-7-13-5;

(4) is not prohibited by a court order from possessing a handgun;

~~(5)~~ (5) ~~does not~~ have a record of being an alcohol or drug abuser as defined in this chapter;

~~(6)~~ (6) ~~does not~~ have documented evidence which would give rise to a reasonable belief that ~~he~~ the person has a propensity for violent or emotionally unstable conduct;

~~(7)~~ (7) ~~does not~~ make a false statement of material fact on ~~his~~ the person's application;

~~(8)~~ (8) ~~does not~~ have a conviction for any crime involving an inability to safely handle a handgun;

~~(9)~~ (9) ~~does not~~ have a conviction for violation of the provisions of this article within five (5) years of ~~his~~ the person's application; or

~~(10)~~ (10) ~~does not~~ have an adjudication as a delinquent child for an act that would be a felony if committed by an adult, if the person applying for a license or permit under this chapter is less than twenty-three (23) years of age."

Renumber all SECTIONS consecutively.

(Reference is to SB 32 as printed February 11, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 0.

RUPPEL, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred Engrossed Senate Bill 67, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-8-16.5-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) The board shall select a third party to audit the fund every two (2) years to determine whether the fund is being managed in accordance with this chapter. The board shall pay for an audit by the third party auditor as an administrative cost of the board.

(b) Every two (2) years, the board shall review wireless 911 service in Indiana, including the collection, disbursement, and use of the wireless emergency enhanced 911 fee assessed under section 25.5 of this chapter. The purpose of the review is to ensure that the 911 fees:

- (1) do not exceed the amount reasonably necessary to provide adequate and efficient wireless 911 service; and
- (2) are used only for the purposes set forth in this chapter.

The board shall adopt a review conducted under this subsection."

Page 1, line 17, delete "39(a)(2)" and insert "39(c)".

Page 2, line 17, delete "recover" and insert "be recovered".

Page 4, line 26, after "chapter," insert "all".

Page 6, between lines 18 and 19, begin a new paragraph and insert: "SECTION 7. IC 36-8-16.5-50 IS ADDED TO THE INDIANA CODE AS A NEW SECTION AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 50. The utility regulatory commission may not exercise jurisdiction over the:

- (1) rates;
- (2) terms; or
- (3) conditions;

of CMRS service, including a CMRS mobile phone."

Page 6, after line 20, begin a new paragraph and insert:

"SECTION 9. [EFFECTIVE JULY 1, 2005] The wireless enhanced 911 advisory board established by IC 36-8-16.5-18 shall conduct:

- (1) an initial review under IC 36-8-16.5-24(b), as amended by this act, not later than June 30, 2006; and
- (2) subsequent reviews under IC 36-8-16.5-24(b), as amended by this act, every two (2) years thereafter."

Renumber all SECTIONS consecutively.

(Reference is to SB 67 as printed February 4, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

RUPPEL, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred Engrossed Senate Bill 201, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 11, after line 7, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "committee" refers to the interim study committee on public safety and homeland security established by this SECTION.

(b) There is established the interim study committee on public safety and homeland security. The committee shall study the following issues:

- (1) Homeland security and public safety.
- (2) Procedures for issuing licenses and permits under IC 9-24.
- (3) Identification cards issued by other jurisdictions, including forms of identification other than passports, that are issued to an individual from a foreign country by:
  - (A) an embassy;
  - (B) a consulate; or
  - (C) another official agent of the foreign country.
- (4) Penalties for business entities that employ individuals without verifying employment eligibility as required by the federal Immigration Reform and Control Act of 1986 (8 U.S.C. 1324a).

(5) Procedures for investigating, apprehending, detaining, transporting, and otherwise interacting with individuals who are in the United States without permission of the Immigration and Naturalization Service.

(6) The availability of and application procedures to obtain grants and other funding for the state police department and other law enforcement agencies for programs to train law enforcement officers in procedures described in subdivision (5).

(7) Procedures for and feasibility of using the state police salary matrix for state fire marshal investigators, criminal investigators from the department of state revenue, officers from the government facilities unit of the state police department, motor carrier inspectors, officers from the Indiana war memorials commission, and inspectors from the state fire marshal's office, based on years of service and rank.

(8) Any other issue assigned by the legislative council.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(e) This SECTION expires January 1, 2006."

(Reference is to SB 201 as printed February 25, 2005.) and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

RUPPEL, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred Engrossed Senate Bill 352, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 0.

RUPPEL, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 481, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "eligible Medicaid recipient" means any of the following:

- (1) An individual who is:
  - (A) at least sixty (60) years of age; and
  - (B) receiving services under a 1915c Medicaid waiver.
- (2) A physically or developmentally disabled individual who is:
  - (A) at least eighteen (18) years of age but less than sixty-five (65) years of age; and
  - (B) receiving Medicaid home and community based waiver services.
- (3) A developmentally disabled individual who is:
  - (A) at least three (3) years of age but less than eighteen (18) years of age; and
  - (B) receiving Medicaid home and community based waiver services.

(b) As used in this SECTION, "eligible services" means care received in the home or the community by an eligible Medicaid recipient that meets the recipient's long term care needs and without which the recipient would be at risk for institutional placement.

(c) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(d) Before January 1, 2006, the office shall apply to the United States Department of Health and Human Services for approval



of a waiver (commonly referred to as the cash and counseling or cash and carrying demonstration waiver) that would allow an eligible Medicaid recipient to receive a cash allowance or have control of a specific budget so that the recipient may purchase eligible services. The office may include in the waiver request a provision that would allow the office to provide an eligible Medicaid recipient with a case manager to assist the recipient by assessing the recipient's needs and establishing the recipient's budget.

(e) The office may not implement the waiver until the office files an affidavit with the governor attesting that the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified by the United States Department of Health and Human Services that the waiver is approved.

(f) If the office receives approval of a waiver under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (e), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(g) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(h) This SECTION expires December 31, 2013."

Renumber all SECTIONS consecutively.

(Reference is to SB 481 as reprinted February 15, 2005.) and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

BECKER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred Engrossed Senate Bill 564, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 32-29-1-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) As used in this section, "agent" means a title insurance agent or a title insurance underwriter.

(b) As used in this section, "banking day" means a day on which the federal reserve bank is open to the public for carrying on substantially all of the functions of the federal reserve bank.

(c) As used in this section, "check" means a negotiable instrument that is drawn on or payable through an insured:

- (1) bank;
- (2) savings and loan association;
- (3) credit union; or
- (4) savings bank;

and contains an unconditional order to pay on demand a specified sum of money.

(d) As used in this section, "escrow account" means a checking account established by an agent with an insured:

- (1) bank;
- (2) savings and loan association;
- (3) credit union; or
- (4) savings bank;

that is used exclusively for the deposit and disbursement of funds for an escrow transaction.

(e) As used in this section, "escrow transaction" means a transaction in which a person deposits with an agent funds that are to be held until:

- (1) a specified event occurs; or
- (2) the performance of a prescribed condition.

(f) Funds received for an escrow transaction must be deposited in an escrow account unless the parties to the escrow transaction agree in writing to another arrangement.

(g) An agent may not make a disbursement from an escrow account unless the following conditions are met:

(1) The cash, funds, money orders, checks, or negotiable instruments necessary for the disbursement have been:

(A) transferred electronically to or deposited into the escrow account of the agent and are available for withdrawal and disbursement; or

(B) physically received by the agent before disbursement and are intended for deposit not later than the next banking day after the date of disbursement.

(2) The transfers or deposits described in subdivision (1) may be any of the following:

(A) Cash or electronically transferred funds.

(B) Certified checks, cashier's checks, checks, or money orders that are drawn on an existing account at a federally insured bank, savings and loan association, credit union, or savings bank.

(C) A check issued by the United States or the state of Indiana, or by an agency, an instrumentality, or a political subdivision of the United States or the state of Indiana.

(D) A check drawn on the escrow account of a title insurance company or title insurance agency, if the agent has reasonable and prudent cause to believe that sufficient funds are available for withdrawal in the account on which the check is drawn at the time of disbursement.

(E) A personal check in a amount not to exceed one thousand dollars (\$1,000).

(h) An agent is not prohibited from advancing an amount not to exceed one thousand dollars (\$1,000) from an escrow account on behalf of a party to an escrow transaction for the purpose of paying incidental fees, including conveyance and recording fees. Incidental fees may be paid in order to:

- (1) effect and close the sale of;
- (2) purchase;
- (3) exchange;
- (4) transfer;
- (5) encumber; or
- (6) lease;

residential real property that is the subject of the escrow transaction.

SECTION 2. IC 32-29-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) In a proceeding for the foreclosure of a mortgage executed on real estate, process may not issue for the execution of a judgment or decree of sale for a period of three (3) months after the filing of a complaint in the proceeding. However:

(1) the period ~~shall be~~ is:

(A) twelve (12) months in a proceeding for the foreclosure of a mortgage executed before January 1, 1958; and

(B) six (6) months in a proceeding for the foreclosure of a mortgage executed after December 31, 1957, but before July 1, 1975; and

(2) if the court finds that the mortgaged real estate is residential real estate and has been abandoned, a judgment or decree of sale may be executed on the date the judgment of foreclosure or decree of sale is entered, regardless of the date the mortgage is executed.

(b) A judgment and decree in a proceeding to foreclose a mortgage that is entered by a court having jurisdiction may be filed with the clerk in any county as provided in IC 33-32-3-2. After the period set forth in subsection (a) expires, a person who may enforce the judgment and decree may file a praecipe with the clerk in any county where the judgment and decree is filed, and the clerk shall promptly issue and certify to the sheriff of that county a copy of the judgment and decree under the seal of the court.

(c) Upon receiving a certified judgment under subsection (b), the sheriff shall, subject to section 4 of this chapter, sell the mortgaged premises or as much of the mortgaged premises as necessary to satisfy the judgment, interest, and costs at public auction at the office of the sheriff or at another location that is reasonably likely to attract higher competitive bids. The sheriff shall schedule the date and time of the sheriff's sale for a time certain between the hours of 10 a.m. and 4 p.m. on any day of the week except Sunday.



(d) Before selling mortgaged property, the sheriff must advertise the sale by publication once each week for three (3) successive weeks in a daily or weekly newspaper of general circulation. The sheriff shall publish the advertisement in at least one (1) newspaper published and circulated in each county where the real estate is situated. The first publication shall be made at least thirty (30) days before the date of sale. At the time of placing the first advertisement by publication, the sheriff shall also serve a copy of the written or printed notice of sale upon each owner of the real estate. Service of the written notice shall be made as provided in the Indiana Rules of Trial Procedure governing service of process upon a person. The sheriff shall charge a fee of ten dollars (\$10) to one (1) owner and three dollars (\$3) to each additional owner for service of written notice under this subsection. The fee is:

- (1) a cost of the proceeding;
- (2) to be collected as other costs of the proceeding are collected; and
- (3) to be deposited in the county general fund for appropriation for operating expenses of the sheriff's department.

(e) The sheriff also shall post written or printed notices of the sale in at least three (3) public places in each township in which the real estate is situated and at the door of the courthouse of each county in which the real estate is located.

(f) If the sheriff is unable to procure the publication of a notice within the county, the sheriff may dispense with publication. ~~However,~~ The sheriff shall state that the sheriff was not able to procure the publication and explain the reason why publication was not possible.

(g) Notices under subsections (d) and (e) must contain a statement, for informational purposes only, of the location of each property by street address, if any, or other common description of the property other than legal description. A misstatement in the informational statement under this subsection does not invalidate an otherwise valid sale.

**(h) The sheriff may charge an administrative fee of not more than two hundred dollars (\$200) with respect to a proceeding referred to in subsection (b) for actual costs directly attributable to the administration of the sale under subsection (c). The fee is:**

- (1) payable by the person seeking to enforce the judgment and decree; and**
- (2) due at the time of filing of the praecipe;**

**under subsection (b)."**

Renumber all SECTIONS consecutively.

(Reference is to SB 564 as reprinted February 11, 2005.)  
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

BURTON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred Engrossed Senate Bill 611, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 0.

RUPPEL, Chair

Report adopted.

The House recessed until the fall of the gavel.

#### RECESS

The House reconvened at 3:45.m. with the Speaker in the Chair.

Representative Thomas, who had been excused, was present.

#### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed House Bills 1052, 1200, 1394, 1398, 1431, and 1794 with amendments and the same are herewith returned

to the House for concurrence.

MARY C. MENDEL  
Principal Secretary of the Senate

#### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed, without amendments, Engrossed House Bills 1099, 1240, 1488, and 1600 and the same are herewith returned to the House.

MARY C. MENDEL  
Principal Secretary of the Senate

#### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed, without amendments, Engrossed House Joint Resolution 4 and the same is herewith returned to the House.

MARY C. MENDEL  
Principal Secretary of the Senate

#### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolution 27 and the same is herewith returned to the House.

MARY C. MENDEL  
Principal Secretary of the Senate

### ENGROSSED SENATE BILLS ON THIRD READING

#### Engrossed Senate Joint Resolution 7

Representative Turner called down Engrossed Senate Joint Resolution 7 for third reading:

A JOINT RESOLUTION proposing an amendment to Article 1 of the Constitution of the State of Indiana concerning the definition of marriage.

The joint resolution was read a third time by sections and placed upon its passage. The question was, Shall the joint resolution pass?

Roll Call 266: yeas 76, nays 23. The joint resolution was declared passed. The question was, Shall the title of the joint resolution remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the joint resolution.

### REPORTS FROM COMMITTEES

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 54, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 34-6-2-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.3. (a) "Advertiser or sponsor", for purposes of IC 34-30-21, means a person who for political, commercial, educational, benevolent, or charitable purposes:**

- (1) donates or contributes money, materials, or products; or**
- (2) pays fees to advertise or display trademarks; in connection with an event.**

**(b) The term does not include a person who exercises primary control over an event.**

SECTION 2. IC 34-6-2-44.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 44.3. "Event", for purposes of section 3.3 of this chapter and IC 34-30-21, means:**

- (1) a performance;**
- (2) a benefit;**
- (3) a fundraiser;**

- (4) an auction;
- (5) a meal;
- (6) a concert;
- (7) a sporting event;
- (8) a festival;
- (9) a parade;
- (10) a reception;
- (11) a trade show;
- (12) a convention;
- (13) an educational program; or
- (14) another occasion organized by or for a federally tax-exempt organization."

Page 1, after line 17, begin a new paragraph and insert:

"SECTION 4. IC 34-30-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 21. Events: Immunity of Advertiser or Sponsor**

**Sec. 1. This chapter does not grant immunity from civil liability to the following:**

- (1) A person who engages in intentional, willful, wanton, or reckless behavior.
- (2) A person who contractually assumes civil liability in connection with an event.
- (3) A person who fails to exercise reasonable care in connection with the direction or control of an event.
- (4) A person who provides defective materials or products or fails to exercise reasonable care in providing materials or products.

**Sec. 2. An advertiser or sponsor of an event is immune from civil liability for the acts or omissions of:**

- (1) the advertiser or sponsor; and
- (2) any other person;

**in connection with the event.**

**Sec. 3. An advertiser or sponsor of an event may not be considered to be:**

- (1) part of a joint venture;
- (2) the principal of an agent; or
- (3) the employer of an employee;

**with regard to a person participating in the event in a capacity other than that of an advertiser or sponsor."**

Renumber all SECTIONS consecutively.

(Reference is to SB 54 as printed February 11, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

FOLEY, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 77, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-13-2-174.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 174.5. "Storage yard" for purposes of IC 9-22-1, has the meaning set forth in IC 9-22-1-3.5.**

SECTION 2. IC 9-22-1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. As used in this chapter, "storage yard" means a storage facility or a towing service used for the removal and storage of abandoned vehicles or parts.**

SECTION 3. IC 9-22-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) If in the opinion of the officer the market value of an abandoned vehicle or parts determined under in accordance with section 12 of this chapter is less than:**

- (1) ~~one five~~ hundred dollars ~~(\$100); (\$500);~~ or
- (2) in a municipality that has adopted an ordinance under subsection (b), the amount established by the ordinance;

**the officer shall immediately dispose of the vehicle to an automobile**

**scrapyard; a towing service.** A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the bureau. **The towing service may dispose of the abandoned vehicle not less than thirty (30) days after the date on which the towing service removed the abandoned vehicle.** The public agency disposing of the vehicle shall retain the original records and photographs for at least two (2) years.

(b) The legislative body of a municipality (as defined in IC 36-1-2-11) may adopt an ordinance that establishes the market value below which an officer may dispose of a vehicle or parts under subsection (a). However, the market value established by the ordinance may not be more than ~~five seven hundred fifty~~ dollars ~~(\$500); (\$750).~~

SECTION 4. IC 9-22-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. (a) If in the opinion of the officer the market value of the abandoned vehicle or parts determined under in accordance with section 12 of this chapter is at least:**

- (1) ~~one five~~ hundred dollars ~~(\$100); (\$500);~~ or
- (2) in a municipality that has adopted an ordinance under section 13(b) of this chapter, the amount established by the ordinance;

**the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts.**

**(b) After seventy-two (72) hours, the officer shall require the vehicle or parts to be towed to a storage area: yard or towing service.**

SECTION 5. IC 9-22-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) If after seventy-two (72) hours the person who owns a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, has not removed the vehicle from the private property, the person who owns or controls the private property may have the vehicle towed from the private property. The towing operator shall do the following:**

- (1) Contact the bureau to obtain the name and address of the person who owns the vehicle.
- (2) ~~Deliver, Send,~~ by certified mail, a copy of the information contained in the notice required under section 15 of this chapter to the person who owns the vehicle. The notice required by this subdivision must be ~~given~~ **mailed to the person who owns the vehicle according to the records of the bureau** not later than five (5) business days after ~~the vehicle is removed; receipt of the information in subdivision (1) from the bureau.~~

**(b) Notwithstanding subsection (a), in an emergency situation a vehicle may be removed immediately. As used in this subsection, "emergency situation" means that the presence of the abandoned vehicle interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.**

SECTION 6. IC 9-22-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 19. (a) Within seventy-two (72) hours after removal of an abandoned vehicle to a storage area: yard or towing service under section 13, 14, or 16 of this chapter, the public agency or towing operator shall prepare and forward to the bureau an abandoned vehicle report containing a description of the vehicle, including the following information concerning the vehicle:**

- (1) The make.
- (2) The model.
- (3) The identification number.
- (4) The number of the license plate.

**(b) The public agency or towing operator shall request that the bureau advise the public agency or towing operator of the name and most recent address of the person who owns or holds a lien on the vehicle.**

**(c) Notwithstanding section 4 of this chapter, if the public agency or towing operator fails to notify the bureau of the removal of an abandoned vehicle within seventy-two (72) hours after the vehicle is removed as required by subsection (a), the public agency or towing operator:**

- (1) may not initially collect more in reimbursement for the costs

of storing the vehicle than the cost incurred for storage for seventy-two (72) hours; and  
 (2) may collect further reimbursement under this chapter only for additional storage costs incurred after notifying the bureau of the removal of the abandoned vehicle.

SECTION 7. IC 9-22-1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. The following are not liable for loss or damage to a vehicle or parts occurring during the removal, storage, or disposition of a vehicle or parts under this chapter:

- (1) A person who owns, leases, or occupies property from which an abandoned vehicle or parts are removed.
- (2) A public agency.
- (3) A towing service.
- (4) An automobile scrapyard.
- (5) A storage yard."**

Page 4, after line 28, begin a new paragraph and insert:

"SECTION 11. **An emergency is declared for this act.**"

Re-number all SECTIONS consecutively.

(Reference is to SB 77 as printed January 21, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

FOLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 132, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

Page 2, line 8, after "Sec. 1." insert **"(a) This chapter applies to premises liability only.**

**(b)"**.

(Reference is to SB 132 as printed February 25, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 4.

FOLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 171, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-28-15-3, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. As used in this chapter, "zone business" means an entity that accesses at least one (1) tax credit, **deduction**, or exemption incentive available under this chapter, IC 6-1.1-20.8, ~~or~~ **IC 6-1.1-45, IC 6-1.1-46, IC 6-3-3-10, IC 6-3.1-7, or IC 6-3.1-10.**

SECTION 2. IC 5-28-15-5, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

- (1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.
- (2) To waive or modify rules as provided in this chapter.
- (3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.
- (4) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:

(A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars (\$1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all its incentives.

(B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.  
 (C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

(5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.

(6) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 9 of this chapter.

(7) To employ staff and contract for services.

(8) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.

(9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites and the availability of the credit provided by IC 6-1.1-20.7 to persons owning inventory located on an industrial recovery site.

(10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by those chapters in appropriate cases.

(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.

(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.

(b) In addition to a registration fee paid under subsection (a)(4)(A), each zone business that receives ~~a credit under an incentive described in section 3 of this chapter~~ shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

SECTION 3. IC 5-28-15-6, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The enterprise zone fund is established within the state treasury.

(b) The fund consists of:

(1) the revenue from the registration fee required under section 5 of this chapter; and

(2) appropriations from the general assembly.

(c) The corporation shall administer the fund. The fund may be used to:

(1) pay the expenses of administering the fund;

(2) pay nonrecurring administrative expenses of the enterprise zone program; ~~and~~

(3) provide grants to U.E.A.s for brownfield remediation in enterprise zones; ~~and~~

**(4) pay administrative expenses of urban enterprise associations.**

However, money in the fund may not be expended unless it has been appropriated by the general assembly and allotted by the budget agency.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The corporation shall develop appropriate applications and may develop grant allocation guidelines, without complying with IC 4-22-2, for awarding grants under this subsection. The grant allocation guidelines must take into consideration the competitive impact of brownfield redevelopment plans on existing zone businesses."

Page 4, line 3, delete "assessor" and insert "assessors".

Page 4, line 7, delete "assessor" and insert "assessors".

Page 4, line 8, delete "assessor" and insert "assessors".

Page 4, between lines 10 and 11, begin a new paragraph and insert:  
"SECTION 5. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

#### **Chapter 45. Enterprise Zone Investment Deduction**

**Sec. 1.** The definitions in this chapter apply throughout this chapter.

**Sec. 2.** "Base year assessed value" equals the total assessed value of the real and personal property assessed at an enterprise zone location on the assessment date in the calendar year immediately preceding the calendar year in which a taxpayer makes a qualified investment with respect to the enterprise zone location.

**Sec. 3.** "Corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

**Sec. 4.** "Enterprise zone" refers to an enterprise zone created under IC 5-28-15.

**Sec. 5.** "Enterprise zone location" means a lot, parcel, or tract of land located in an enterprise zone.

**Sec. 6.** "Enterprise zone property" refers to real and tangible personal property that is located within an enterprise zone on an assessment date.

**Sec. 7.** "Qualified investment" means any of the following expenditures relating to an enterprise zone location on which a taxpayer's zone business is located:

- (1) The purchase of a building.
- (2) The purchase of new manufacturing or production equipment.
- (3) The purchase of new computers and related office equipment.
- (4) Costs associated with the repair, rehabilitation, or modernization of an existing building and related improvements.
- (5) Onsite infrastructure improvements.
- (6) The construction of a new building.
- (7) Costs associated with retooling existing machinery.

**Sec. 8.** "Zone business" has the meaning set forth in IC 5-28-15-3.

**Sec. 9.** (a) A taxpayer that makes a qualified investment is entitled to a deduction from the assessed value of the taxpayer's enterprise zone property located at the enterprise zone location for which the taxpayer made the qualified investment. The amount of the deduction is equal to the remainder of:

- (1) the total amount of the assessed value of the taxpayer's enterprise zone property assessed at the enterprise zone location on a particular assessment date; minus
- (2) the total amount of the base year assessed value for the enterprise zone location.

(b) To receive the deduction allowed under subsection (a) for a particular year, a taxpayer must comply with the conditions set forth in this chapter.

**Sec. 10.** (a) A taxpayer that desires to claim the deduction provided by section 9 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed before May 10 of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

**Sec. 11.** (a) The county auditor shall determine the eligibility of each applicant under this chapter and shall notify the applicant of the determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the county auditor under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court not later than forty-five (45) days after the county auditor gives the person notice of the determination.

**Sec. 12.** A taxpayer may not claim a deduction under this chapter for more than ten (10) years.

SECTION 6. IC 6-1.1-46 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

#### **Chapter 46. Enterprise Zone Personal Property Deduction**

**Sec. 1.** The definitions in this chapter apply throughout this chapter.

**Sec. 2.** "Corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

**Sec. 3.** "Enterprise zone" refers to an enterprise zone created under IC 5-28-15.

**Sec. 4.** "Enterprise zone personal property" refers to tangible personal property that is located within an enterprise zone on the assessment date.

**Sec. 5.** (a) A taxpayer that meets the conditions of subsection (b) may receive a deduction from the assessed value of the taxpayer's enterprise zone personal property. The amount of the deduction is equal to the lesser of:

- (1) the assessed valuation of the taxpayer's enterprise zone personal property; or
- (2) two hundred fifty thousand dollars (\$250,000).

(b) A taxpayer is entitled to a deduction under this chapter for a particular year if:

- (1) the taxpayer complies with the conditions set forth in this chapter; and
- (2) the taxpayer's application for a deduction is approved by the fiscal body of the municipality in which the enterprise zone is located.

**Sec. 6.** (a) A taxpayer that desires to claim the deduction provided by section 5 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed before May 10 of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

(c) The county auditor shall submit all applications received under this section to the fiscal body of the municipality in which the property for which the deduction is claimed was located on the assessment date. The fiscal body may approve or reject the application according to criteria adopted by the fiscal body.

**Sec. 7.** (a) The county auditor shall notify the applicant of the fiscal body's determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the fiscal body under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court not later than forty-five (45) days after the county auditor gives the person notice of the fiscal body's determination.

SECTION 7. IC 6-3.1-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.** The department shall annually compile and report to the Indiana economic development corporation the following information:

- (1) The number of tax credits claimed under this chapter for taxable years ending in the preceding state fiscal year.
- (2) The total amount of the tax credits described in subdivision (1).
- (3) For each enterprise zone, the number and amount of tax

credits described in subdivision (1) that are attributable to loans made to businesses located in the enterprise zone.

SECTION 8. IC 6-3.1-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]:  
Sec. 4. (a) As used in this chapter, "taxpayer" means any: individual that has any state tax liability:

- (1) person;
- (2) corporation; or
- (3) pass through entity;

that has any state tax liability.

(b) Notwithstanding subsection (a); for a credit for a qualified investment in a business located in an enterprise zone in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); "taxpayer" includes a pass through entity.

SECTION 9. IC 6-3.1-10-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]:  
Sec. 10. (a) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to another taxpayer. An assignment under this subsection must be in writing. A credit that is assigned under this subsection remains subject to this chapter.

(b) An assignment under subsection (a) must be reported on the state tax returns of the taxpayer and the assignee for the year in which the assignment is made in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (a) that exceeds the value of the part of the credit assigned.

(c) A taxpayer that assigns a tax credit under this section shall contribute at least fourteen percent (14%) of the proceeds of the assignment to the urban enterprise association established under IC 4-4-6.1 for the enterprise zone in which the taxpayer is located.

(d) After making the contribution required under subsection (c), a taxpayer that assigns a tax credit under this section shall reinvest the remaining proceeds of the assignment in the taxpayer's enterprise zone operations.

SECTION 10. [EFFECTIVE JANUARY 1, 2006] (a) IC 6-3.1-10-4, as amended by this act, applies to taxable years beginning after December 31, 1999.

(b) IC 6-3.1-10-10, as added by this act, applies to taxable years beginning after December 31, 1999.

SECTION 11. [EFFECTIVE JANUARY 1, 2006] IC 6-1.1-45 and IC 6-1.1-46, both as added by this act, apply to assessment dates occurring after February 28, 2006, for property taxes first due and payable after December 31, 2006."

Page 4, line 11, delete "JULY 1, 2004]" and insert "JANUARY 1, 2006]".

Page 4, after line 13, begin a new paragraph and insert:

"SECTION 13. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to SB 171 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

FOLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 268, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 7. IC 20-12-29.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

#### Chapter 29.7. Adult Stem Cell Research Center

Sec. 1. As used in this chapter, "center" refers to an adult stem cell research center established under section 2 of this chapter to carry out the duties specified by this chapter.

Sec. 2. The board of trustees of Indiana University may establish an adult stem cell research center.

Sec. 3. The center must be under the administration of the school of medicine.

Sec. 4. The dean of the school of medicine shall appoint the director of the center.

Sec. 5. The board of trustees of Indiana University may receive, accept, hold, and apply donations, bequests of funds, property, gifts, and other income in support of the center's purposes.

Sec. 6. The center shall:

- (1) conduct a thorough and comprehensive needs assessment of the state of science of adult stem cell research; and
- (2) develop strategies to move Indiana University into the forefront of the nation in its capacity to attract and retain adult stem cell researchers."

Renumber all SECTIONS consecutively.

(Reference is to SB 268 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 1.

BECKER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 303, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

FOLEY, Chair

Report adopted.

#### ENGROSSED SENATE BILLS ON SECOND READING

##### Engrossed Senate Bill 615

Representative Becker called down Engrossed Senate Bill 615 for second reading. The bill was read a second time by title.

#### HOUSE MOTION

(Amendment 615-3)

Mr. Speaker: I move that Engrossed Bill 615 be amended to read as follows:

Page 4, line 26, after "shall" insert "**be given the opportunity to**".

Page 4, line 32, delete "A" and insert "**If the proposing agency fails to give the board the opportunity to review a**".

Page 4, line 32, delete "that is not" and insert "**, the rule:**".

Page 4, delete line 33.

(Reference is to ESB 615 as printed March 18, 2005.)

BECKER

Motion prevailed.

#### HOUSE MOTION

(Amendment 615-4)

Mr. Speaker: I move that Engrossed Senate Bill 615 be amended to read as follows:

Page 8, between lines 41 and 42, begin a new line block indented and insert:

"(4) **Require daily rate components for individuals enrolled in services that include components for residential services (based on at least a three (3) resident to one (1) staff ratio, whenever possible), day services, and other services as determined by the division of disability, aging and rehabilitative services.**

(5) **Require an annual or biennial service agreement among the state, provider and developmentally disabled individual (as defined in IC 12-7-2-62) formalizing the commitment of each party to the placement and implementation of the individualized support plan.**

(6) **Allow termination or modification of the service agreement if:**

- (A) **the individual is not in services for more than fifteen (15) consecutive days;**

- (B) the services described in the individualized support plan have not been provided;
- (C) the individual is abused or neglected by an agent or employee of the provider during the period of the service agreement;
- (D) there is a substantial change in the condition of the individual which increases the total services required by the individual;
- (E) through no fault of the provider, a housemate departs the setting; or
- (F) the provider fails to provide reports and information as requested by the state.

(7) Require annual cost reporting to determine the base rates for the funding matrix under subdivision (2)."

Page 9, line 3, delete "to provide" and insert "to:".

Page 9, delete lines 4 through 15, begin a new line block indented and insert:

- "(1) allow a provider to be given credit for any provider standards that the division determines are the same as or similar in intent and effect as state or federally mandated provider standards;
- (2) require a provider to comply with any individual provider standards not included in the accreditation standards of an approved independent national accreditation organization;
- (3) require a provider or approved independent national accreditation organization to provide the division with documentation of the applicable accreditation standards; and
- (4) require the provider to maintain accreditation and notify the division if accreditation is suspended or revoked."

Page 9, between lines 16 and 17 begin a new line block indented and insert:

"SECTION 11. [EFFECTIVE JULY 1, 2005] (a) Before July 1, 2006, the office of the secretary of family and social services shall adopt rules under IC 4-22-2 to add and amend rules under 405 IAC to govern fiscal audits completed by:

- (1) the office of the secretary of family and social services audit staff; and
- (2) agencies contracted by the office of the secretary of family and social services to complete fiscal audits.

(b) Before July 1, 2006, the office of the secretary of family and social services shall adopt rules under IC 4-22-2 to add and amend rules under 405 IAC to require that the office of the secretary of family and social services' audit rules for providers of services to a developmentally disabled individual (as defined in IC 12-7-2-62) must meet the following requirements:

- (1) All classifications of providers are required to be audited.
- (2) The audit process must be written, formalized, and have specific time schedules.
- (3) Not less than fourteen (14) days advanced notice must be given before:
  - (A) an audit; and
  - (B) any papers required to be provided during the audit must be submitted to the audit agency.
- (4) The purpose and content of an exit conference must be defined.
- (5) The purpose, scope, and schedule for the issuance of audit reports must be defined.
- (6) Except for cases of fraud, an audit must be completed and issued not more than two (2) years after the end of the:
  - (A) grant period; or
  - (B) provider's fiscal year;
 whichever is later.

(7) A formal appeal process that includes:

- (A) the issuance of a preliminary finding;
- (B) a time for the provider to respond to the preliminary findings and submit additional information for review before final findings are issued; and
- (C) appeal procedures with deadlines.

(c) Before July 1, 2006, the division of disability, aging, and rehabilitative services shall adopt rules under IC 4-22-2 that

comply with rules adopted under subsections (a) and (b) and that require the following:

- (1) Audit and program staff of the family and social services administration to jointly approve issued service definitions and bulletins that impact potential audit issues.
- (2) Development of comprehensive bureau of developmental disabilities services provider manual for state and waiver funded services that is comparable to the Medicaid provider manual.
- (3) All revisions to the manual created under subdivision (2) and rules adopted or amended may be implemented only on the first day of a month.
- (4) Develop consistent definitions of services and documentation standards regardless of the funding source.
- (5) Develop written documentation standards, including acceptable electronic documentation formats.
- (6) Provide initial and periodic training of a provider's financial staff by the division of disability, aging, and rehabilitative services concerning accounting, billing, and audit procedures.

(d) This SECTION expires July 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to ESB 615 as printed March 18, 2005.)

BECKER

Motion prevailed.

#### HOUSE MOTION (Amendment 615-1)

Mr. Speaker: I move that Engrossed Senate Bill 615 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning human services and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert the following:

"SECTION 1. IC 12-10-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The community and home options to institutional care for the elderly and disabled program is established. The division shall administer the program and shall do the following:

- (1) Adopt rules under IC 4-22-2 for the coordination of the program.
- (2) Administer state and federal money for the program.
- (3) Develop and implement a process for the management and operation of the program locally through the area agencies on aging based upon criteria developed by the division.
- (4) Approve the selection of community and home care services providers based upon criteria developed by the division.
- (5) Review and approve community and home care services plans developed by services providers.
- (6) Provide training and technical assistance for the staff providers.
- (7) Select or contract with agencies throughout Indiana to provide community and home care services.
- (8) Assist the office in applying for Medicaid waivers from the United States Department of Health and Human Services to fund community and home care services needed by eligible individuals under this chapter.
- (9) Provide sufficient funding for the program:
  - (A) for any individual who is eligible for the program and applies for services under the program; and
  - (B) in a manner that eliminates a waiting list for services under the program.

The amount necessary to implement this subdivision is annually appropriated from the general fund to the division."

Renumber all SECTIONS consecutively.

(Reference is to ESB 615 as printed March 18, 2005.)

AVERY

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

## APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Avery's amendment (615-1) is not germane to Engrossed Senate Bill 615.

Amendment 1 is germane to Engrossed Senate Bill 615 because both measures concern CHOICE program.

PELATH  
AVERY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 267: yeas 50, nays 45. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

There being no further amendments, the bill was ordered engrossed.

**Engrossed Senate Bill 518**

Representative Friend called down Engrossed Senate Bill 518 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 518-7)

Mr. Speaker: I move that Engrossed Senate Bill 518 be amended to read as follows:

Page 1, line 4, delete ",".

Page 1, line 5, reset in roman "and".

Page 1, line 6, delete "and IC 14-23-1".

Page 3, line 24, after "10." insert "(a)".

Page 3, line 24, after "ordinance" delete "of" and insert "adopted after March 31, 2005, by".

Page 3, between lines 31 and 32, begin a new paragraph and insert: **"(b) If the owner of a property owned the property before the enactment of an ordinance that restricts forestry operations but that is not invalidated by subsection (a), the property is exempt from the ordinance if the forestry operations (as defined by IC 32-30-6-1.5) on the property:**

**(1) comply with generally accepted best management practices;**

**(2) comply with the practices established in the Indiana Logging and Forestry Best Management Practices BMP Field Guide, as published in September 1999, by the division of forestry of the department of natural resources; and**

**(3) have been in continuous operation on the property."**

(Reference is to ESB 518 as printed March 18, 2005.)

GRUBB

Motion prevailed.

HOUSE MOTION  
(Amendment 518-3)

Mr. Speaker: I move that Engrossed Senate Bill 518 be amended to read as follows:

Page 2, line 40, delete "negligent operation" and insert "failure".

Page 2, line 40, delete "operation." and insert "operation to conform to the guidelines contained in the Indiana Logging and Forestry Best Management Practices BMP Field Guide, as published in September 1999, by the division of forestry of the department of natural resources."

(Reference is to ESB 518 as printed March 18, 2005.)

PIERCE

Motion failed. The bill was ordered engrossed.

**Engrossed Senate Bill 378**

Representative Woodruff called down Engrossed Senate Bill 378 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 378-3)

Mr. Speaker: I move that Engrossed Bill 378 be amended to read as follows:

Page 7, line 32, reset in roman "(a) .

Page 7, between lines 36 and 37, begin a new paragraph and insert: **"(b) Notwithstanding subsection (a) of this section, the total amount of credits allowed a taxpayer (or, if the person producing ethanol is a pass through entity, the shareholders, partners, or members of the pass through entity) may increase to an amount not to exceed a total of five million dollars (\$5,000,000) for all taxable years, with the prior approval of the Indiana economic development corporation.**

(Reference is to Engrossed Senate Bill 378 as printed March 18, 2005.)

WOODRUFF

Motion prevailed.

HOUSE MOTION  
(Amendment 378-4)

Mr. Speaker: I move that Engrossed Senate Bill 378 be amended to read as follows:

Page 9, line 23, delete "has any state tax" and insert **"makes a qualified investment."**

Page 9, delete line 24.

Page 11, line 40, after "20." insert **"(a) This section applies if a qualified investment is made by a pass through entity or by taxpayers who are co-owners of an integrated coal gasification powerplant."**

Page 11, line 40, delete "If a pass through entity does not have" and insert:

**"(b) If the credit allowed by this chapter for a taxable year is greater than the"**

Page 11, line 40, after "state tax liability" insert **"of the pass through entity"**

Page 12, line 3, after "year" insert **"in excess of the pass through entity's state tax liability for the taxable year"**

Page 12, between lines 11 and 12, begin a new paragraph and insert:

**"(c) If an integrated coal gasification powerplant is co-owned by two or more taxpayers, the amount of the credit which may be allowed to a co-owner in a taxable year is equal to:**

**(1) the tax credit determined under sections 15 and 16 of this chapter with respect to the total qualified investment in the integrated coal gasification powerplant; multiplied by**

**(2) the co-owner's percentage of ownership in the integrated coal gasification powerplant.**

**(d) The amount of an annual installment of the credit allowed to a shareholder, partner, or member of a pass through entity or a co-owner shall be determined under section 16 of this chapter modified as follows:**

**(1) STEP ONE (A) shall be based on the percentage of the credit allowed to the shareholder, partner, member or co-owner under this section.**

**(2) STEP ONE (B) shall be based on the state tax liability or liability for utilities receipts tax of the shareholder, partner, member or co-owner."**

(Reference is to ESB 378 as printed March 18, 2005.)

WOODRUFF

Motion prevailed.

HOUSE MOTION  
(Amendment 378-1)

Mr. Speaker: I move that Engrossed Senate Bill 378 be amended to read as follows:

Page 13, between lines 3 and 4, begin a new paragraph and insert: **"SECTION 19. [EFFECTIVE JULY 1, 2005] (a) For purposes of IC 6-2.5, the state gross retail and use tax does not apply to the sale of gasoline, as defined in IC 6-2.5-7, after June 30, 2005, and before January 1, 2006. In addition, no state use tax is due based on the use of gasoline exempt under this SECTION.**

**(b) The department of state revenue shall issue a bulletin setting forth the requirements for distributors and retailers with respect to implementing this SECTION.**

**(c) This SECTION expires January 1, 2006."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 378 as printed March 18, 2005.)

CROOKS



Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

#### APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Crooks's amendment (378-1) is not germane to Engrossed Senate Bill 378.

Amendment 1 is germane to Engrossed Senate Bill 378 because both measures concern decreasing energy taxes.

PELATH  
CROOKS

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 268: yeas 51, nays 47. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

#### HOUSE MOTION (Amendment 378-2)

Mr. Speaker: I move that Engrossed Senate Bill 378 be amended to read as follows:

Page 12, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 16. IC 6-3.1-30 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

##### **Chapter 30. Ethanol Powered Motor Vehicle Tax Credit**

**Sec. 1.** As used in this chapter, "ethanol" means agriculturally derived ethyl alcohol.

**Sec. 2.** As used in this chapter, "E85 ethanol powered motor vehicle" means a motor vehicle that is powered by E85 blend fuel that consists of at least eighty-five percent (85%) ethanol and not more than fifteen percent (15%) gasoline.

**Sec. 3.** As used in this chapter, "motor vehicle" has the meaning set forth in IC 6-6-1.1-103.

**Sec. 4.** As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

**Sec. 5.** As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 6-5.5 (the financial institutions tax); and
- (3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

**Sec. 6.** As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.

**Sec. 7.** A taxpayer who purchases an E85 powered motor vehicle is entitled to a credit against the taxpayer's state tax liability in the taxable year of the purchase equal to five hundred dollars (\$500).

**Sec. 8.** If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

**Sec. 9. (a)** If the amount of the credit determined under section 7 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry over the excess to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer

to obtain a credit under this chapter for any subsequent taxable year.

**(b)** A taxpayer is not entitled to a carryback or refund of any unused credit.

**Sec. 10.** To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department proof of the taxpayer's purchase of an E85 powered motor vehicle and any other information required by the department.

SECTION 17. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

##### **Chapter 31. Tax Credit for the Installation of an E85 Fuel Pump**

**Sec. 1.** As used in this chapter, "ethanol" means agriculturally derived ethyl alcohol.

**Sec. 2.** As used in this chapter, "E85 ethanol fuel dispensing pump" means a fuel dispensing pump that dispenses E85 blend fuel that consists of at least eighty-five percent (85%) ethanol and not more than fifteen percent (15%) gasoline.

**Sec. 3.** As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

**Sec. 4.** As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 6-5.5 (the financial institutions tax); and
- (3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

**Sec. 5.** As used in this chapter, "taxpayer" means an individual or entity that:

- (1) has any state tax liability; and
- (2) is engaged in the business of selling motor fuel at retail.

**Sec. 6.** A taxpayer who installs an E85 ethanol fuel dispensing pump is entitled to a credit against the taxpayer's state tax liability in the taxable year that the taxpayer installs the E85 ethanol fuel dispensing pump equal to the lesser of:

- (1) ten thousand dollars (\$10,000); or
- (2) the taxpayer's state tax liability for the taxable year.

**Sec. 7.** If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

**Sec. 8.** A taxpayer is not entitled to a carryover, carryback or refund of any unused credit.

**Sec. 9.** To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department proof of the taxpayer's installation of an E85 ethanol fuel dispensing pump and any other information required by the department."

Renumber all SECTIONS consecutively.

(Reference is to ESB 378 as printed March 18, 2005.)

CROOKS

Upon request of Representatives Crooks and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 269: yeas 47, nays 50. Motion failed. The bill was ordered engrossed.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

**OTHER BUSINESS ON THE SPEAKER'S TABLE**

**HOUSE MOTION**

Mr. Speaker: I move that Representative Ayres be added as cosponsor of Engrossed Senate Bill 452.

**BORROR**

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Ayres be added as cosponsor of Engrossed Senate Bill 459.

**LEONARD**

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Burton be added as cosponsor of Engrossed Senate Bill 564.

**FOLEY**

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three cosponsors and that

Representatives Alderman, Ayres, Becker, Behning, Bischoff, Borrer, Bosma, Bright, T. Brown, Buck, Budak, Buell, Cherry, Davis, Dodge, Duncan, Espich, Foley, Friend, Frizzell, Goodin, Gutwein, T. Harris, Heim, Hinkle, Hoffman, Koch, Lehe, Leonard, J. Lutz, McClain, Messer, Murphy, Neese, Noe, Pond, Richardson, Ripley, Robertson, Saunders, J. Smith, Stutzman, Thomas, Thompson, Torr, Ulmer, Walorski, Whetstone, Wolkins, Woodruff, and Yount be added as cosponsors of Engrossed Senate Joint Resolution 7.

**TURNER**

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Davis, the House adjourned at 6:30 p.m., this twenty-second day of March, 2005, until Thursday, March 24, 2005, at 1:30 p.m.

**BRIAN C. BOSMA**

Speaker of the House of Representatives

**M. CAROLINE SPOTTS**

Principal Clerk of the House of Representatives